

REMARKS

The Examiner has objected to the drawings as having improper margins at Figures 1 and 3. Submitted herewith are proposed replacement pages, having adjusted margins.

Claims 26 and 47 have been rejected under 35 U.S.C. 112, second paragraph as being indefinite. Claim 26 has been amended in accordance with the Examiner's suggestion, while the dependency of claim 47 has been corrected to reflect dependency from claim 46.

Claims 22-25, 27, and 31-43 have been rejected as being unpatentable and obvious over Watanabe, et al '594 in view of Friends, et al '407. Claims 28-30 and 44-46 have been objected to as being dependent on a rejected base claim, but would otherwise be allowable if rewritten.

Responsive to the foregoing, Applicants respectfully request reconsideration of the rejection of the claims, as it is earnestly believed that the present invention, as set forth in such claims, is not rendered unpatentable by the references of record.

While Watanabe, et al '594 discloses a hydrogel contact lens with copolymerized monomers modified with betaine, and Friends, et al '409 teaches that amino acids may be used in polymeric compositions, it is submitted that the Examiner's combination of the teachings is based solely on the hindsight provided by the disclosure of the present application, and accordingly is improper.

Watanabe, et al '594 sets forth that there are significant limitations in connection with betaine modified monomers. See, for example, col. 2, lines 14-25. Thus, one skilled in the art would appreciate that the successful use of such monomers would be expected to be in conjunction with the specific compositions disclosed by Watanabe, et al. And while Friends '409 teaches the use of amino acids in polymeric compositions, it offers no teaching or suggestion that such polymers could necessarily be successfully combined with betaine modified monomers.

At the most, the combination of Watanabe, et al and Friends might lead one skilled in the art to find it obvious to try various combinations of the contact lens components respectively recited therein, but such a standard is not the obviousness standard of 35 U.S.C. 103. *In re Geiger*, 2 U.S.P.Q.2d 1276 (Fed. Cir. 1987). Particularly in view of the difficulties in using betaine, as acknowledged in Watanabe, et al, it is improper to extend the teachings of Watanabe to lens formulations not disclosed therein, and particularly to combine it with the teaching of Friends, to extend it to the invention of the present application without some reasonable expectation that such a combination would yield a successful result. No such teaching can be found in either Watanabe, et al or Friends. See, e.g., *In re Zurko*, 42 U.S.P.Q.2d 1476 (Fed. Cir. 1997). If anything, the teachings of Watanabe would indicate that success with other lens formulations would not be expected.

Additionally, the present invention allows a refractive index of the lens to be set very close to that of the natural cornea of 1.37, and to be adjusted and lowered down to 1.320. See application page 3, lines 9-12 and page 5, line 27. The refractive index of the lenses produced in accordance with Watanabe, et al '594 is uniformly in the range of 1.4+. See cols. 30-32. A refractive index of 1.37 is not disclosed as being possible with Watanabe, et al, and is a further


unobvious benefit resulting from the current formulation. Neither Watanabe nor Friends teaches or suggests the expectation of such a benefit.

In view of the foregoing, withdrawal of the rejection of claims 22-25, 27 and 31-43 and passage to allowance of all claims is solicited.

Respectfully submitted,

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